

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA**

RICHARD MATTHEWS	:	CIVIL ACTION
	:	
vs.	:	JURY TRIAL DEMANDED
	:	
OFFICER ARTHUR, ET AL.	:	NO. 10-cv-1215
	:	JUDGE MUNLEY

**DEFENDANTS, OFFICER ARTHUR, OFFICER BOROWICZ AND
OFFICER FLESHER'S REPOSE TO PLAINTIFF'S MOTION TO
AMEND COMPLAINT**

NOW COMES Defendants, Officer Arthur, Officer Borowicz and Officer Flesher by and through their authorized counsel of record, Mayers, Mennies & Sherr, LLP, and in response to Plaintiff's Motion to Amend Complaint, request that this Honorable Court strike Plaintiff's Motion for failure to comport with local rules and further in support of this Response states as follows:

1. Admitted.
2. Admitted.
3. Denied as stated. As Logan's Motion to Dismiss is a writing, Plaintiff's characterization of this writing is denied. By way of further response, Logan did assert that there were no actions under color of state law.
4. Denied as stated. Without knowing Plaintiff's motivation for taking such action Defendants cannot formulate a response to this averment. By way of further response, the Amended Complaint is a writing and Plaintiff's

characterization of that writing is denied.

5. Admitted.

6. Denied. To the contrary, the deposition testimony of the witnesses referred to by Plaintiff in this averment are in writing, and Plaintiff's interpretation of these writings is denied. By way of further response, in support of this averment Plaintiff relies upon the testimony of just one witness, and it is believed and therefore averred that Plaintiff is misconstruing the testimony of this witness.

7. Denied. The testimony upon which Plaintiff allegedly bases this averment is a writing, and Plaintiff's interpretation of this writing is denied. By way of further response, the attached Exhibit does not support this averment.

8. Denied as stated. The testimony relied upon by Plaintiff in making this averment is a writing, and Plaintiff's interpretation of these writings are denied. By way of further response, Responding Defendants have asserted and continue to assert that no action for malicious prosecution nor selective prosecution is cognizable under the facts and circumstances of this matter against Responding Defendants.

9. Denied. The testimony of Defendant Flesher is a writing and Plaintiff's characterization of this writing is denied.

10. Denied. The testimony of Defendant Flesher is a writing and

Plaintiff's characterization of this writing is denied.

11. Admitted.

12. Admitted. It is admitted that this is what Plaintiff is seeking.

13. Denied. The allegations in ¶13 constitute a conclusion of law to which no responsive pleading is required.

WHEREFORE, Defendants, Officer Arthur, Officer Borowicz and Officer Flesher request that this Honorable Court strike Plaintiff's Motion or in the alternative deny Plaintiff's Motion to Amend the Complaint.

Respectfully submitted,

MAYERS, MENNIES & SHERR, LLP

BY: /s/ ANTHONY R. SHERR, ESQUIRE

Attorney for Defendants
Officer Arthur, Officer Borowicz and
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RICHARD MATTHEWS	:	CIVIL ACTION
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vs.	:	JURY TRIAL DEMANDED
	:	
BOROUGH OF OLYPHANT, ET AL.:	:	NO. 10-cv-1215
	:	JUDGE MUNLEY

CERTIFICATE OF SERVICE

I, the undersigned hereby certify that on the 11th day of May 2011, a true and correct copy of Defendants, Officer Arthur, Officer Borowicz and Officer Flesher's Response to Plaintiff's Motion to Amend Complaint was served electronically upon the following:

Matthew B. Weisberg, Esquire
Weisberg Law, P.C.
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Morton, PA 19070-7722
Counsel for Plaintiff Richard Matthews

MAYERS, MENNIES & SHERR, LLP

BY:/s/ ANTHONY R. SHERR, ESQUIRE
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